



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

SSP/160146

PRELIMINARY RECITALS

Pursuant to a petition filed August 21, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to State Supplemental SSI benefits, a hearing was held on October 16, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly sought to discontinue the petitioner's State Supplemental SSI payments effective August 31, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By Letter: Melissa Sherry
Division of Health Care Access and Accountability
State Supplemental Security Income Unit
P.O. Box 6680
Madison, WI 53716

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Wisconsin.

2. Prior to September, 2014, Petitioner received State Supplemental SSI payments. The Department notified the petitioner on August 19 that his State Supplemental SSI benefits would be discontinued effective August 31, 2014. The petitioner timely appealed.
3. Prior to September, 2014, the federal Social Security Administration (SSA) notified the petitioner that his federal SSI payments would be discontinued effective August 31, 2014. Petitioner received SSI as a child. Petitioner was 19 at the time of the hearing. The Social Security Administration determined that Petitioner was not eligible for SSI as an adult.
4. Petitioner agrees that effective August 31, 2014 he is no longer receiving SSI. He has reapplied for SSI as an adult. He does not know the status of this new application.

DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its State Supplemental SSI payments separately from federal SSI payments (they had previously been sent out as one check by the Social Security Administration). The state statute that lists the eligibility criteria for State Supplemental SSI payments reads as follows:

49.77 State supplemental payments.

...

(2) ELIGIBILITY. (a) *The following persons who meet the resource limitations and the nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d are entitled to receive supplemental payments under this section:*

- ...
2. *Any needy person or couple residing in this state and receiving benefits under federal Title XVI.*
 3. Any needy person or couple residing in this state whose income ... is less than the combined benefit level available under federal Title XVI and this section, if at least one of the following requirements are met:
 - a. The person or couple was eligible for a state supplement under this section based on the last federal eligibility determination prior to January 1, 1996, but was not eligible to receive a payment under federal Title XVI on that date.
 4. Any essential person.

(emphasis added)

Wis. Stat. § 49.77(2). The State sought discontinuance of the State Supplemental benefit because it believed that petitioner did not meet the nonfinancial eligibility requirements of the federal SSI (*i.e.*, Title XVI) program as of August 31, 2014, based on information provided by the SSA.

In this case Petitioner received SSI as a child. When he was 19 years old, the Social Security Administration determined that he was not eligible for SSI under the adult standard. The adult disability standard is more difficult to meet than the child disability standard. To be found disabled as a child, one must medically equal or functionally equal a childhood disability listing. As an adult the issue is not whether one functionally equals a listing, but rather whether one can perform any job in the national economy given one's limitations. For example, a child with ADD could be disabled, but as an adult that person is able to perform more physical labor or physical tasks, and therefore that person would not be disabled. The Social Security Administration determined that this Petitioner was not disabled as an adult. Petitioner disagrees with that determination and has reapplied for SSI as an adult. That application is

currently pending. Petitioner agrees that SSA determined that he was not eligible for SSI effective August 31, 2014.

If the petitioner is nonfinancially eligible for federal SSI, he is nonfinancially eligible for State Supplemental SSI. Because he did not establish at hearing that he was eligible for federal SSI in September, 2014, it follows that he was not eligible for State Supplemental SSI in that month (and beyond). Accordingly, I conclude that the state benefit discontinuance for September, 2014, was correct.

CONCLUSIONS OF LAW

The Department correctly discontinued the petitioner's State Supplemental SSI payments because the petitioner was no longer eligible for federal SSI after August 31, 2014.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

...

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 21st day of October, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 21, 2014.

Division of Health Care Access and Accountability
State SSI